

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1537

S.P. 584

In Senate, April 16, 1991

Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator GAUVREAU of Androscoggin

Cosponsored by Representative JALBERT of Lisbon, Representative STEVENS of Sabattus  
and Senator MILLS of Oxford.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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An Act Relating to Sheriff's Fees for Civil Orders of Arrest.

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Be it enacted by the People of the State of Maine as follows:

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4       **Sec. 1. 14 MRSA §3126**, as amended by PL 1987, c. 184, §8, is further amended to read:

6       **§3126. Fees and costs**

8       The disclosure subpoena, return of service and the writ of execution or an attested copy thereof shall must be filed with the clerk, together with a filing fee as established by the Supreme Judicial Court pursuant to Title 4, section 175. The fee and actual costs of service shall must be added to the judgment, unless the judgment creditor or his the judgment creditor's attorney fails to appear in accordance with section 3125 or unless the judge orders otherwise. Costs of service incurred by the creditor, in addition to the filing fee and the service of the disclosure subpoena, may be imposed upon the judgment debtor or the 3rd party at the discretion of the court except that costs may not be imposed in favor of the judgment creditor unless the judgment creditor, at the commencement of proceedings under this chapter, files an affidavit with the clerk stating that the judgment creditor has made a good faith effort to determine that the judgment debtor has nonexempt income or assets from which the judgment debtor can satisfy the judgment.

26       **Sec. 2. 14 MRSA §3135, last ¶**, as enacted by PL 1987, c. 184, §18, is amended to read:

28  
30       Unless the judgment debtor shows good cause for his failure to appear after being duly served with a disclosure subpoena under section 3123 or a contempt subpoena under section 3136, the debtor shall must be ordered to pay the costs of issuing and serving the civil order for arrest. The costs of issuing and serving the civil order for arrest shall ~~be~~ are \$25 plus mileage at a rate of 21¢ per mile. The fee payable to sheriffs and their deputies for civil orders for arrest is governed by Title 30-A, section 421, subsection 6.

38  
40       **Sec. 3. 30-A MRSA §421, sub-§6**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

42       **6. Civil arrests and custody.** For civil arrests, \$5 ~~\$20~~ for the arrest and \$5 ~~\$20~~ shall must be charged for custody under the arrest, including arrest and custody under paternity proceedings;

46  
48       **Sec. 4. 30-A MRSA §4216, 2nd ¶ from the end**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

50       The county commissioners of each county may require that the fees collected under subsections 1, 2, 3, 5, 7, 12, 13 and 14 be increased by \$1. The sheriff or deputy shall collect this

2 additional dollar and pay it to the county treasurer for the use  
and benefit of the county. The county commissioners may also  
4 require that the fees collected under subsections 1 to 14 be  
increased by an amount equal to the cost of social security and  
6 other withholding taxes on the fees payable under this section.

8 **STATEMENT OF FACT**

10 This bill increases the fee paid to sheriffs for civil  
arrests and custody from \$5 to \$20 and makes clear that the costs  
12 of issuing and serving civil orders for arrests chargeable to a  
judgment debtor who fails to appear under the Maine Revised  
14 Statutes, Title 14, section 3135 are distinct from the fee  
payable to a sheriff for a civil order for arrest under Title  
16 30-A, section 421. The bill gives the power to county  
commissioners to require that the fees collected under Title  
18 30-A, section 421 be increased by the costs of social security  
and other withholding taxes. The bill specifies that a judgment  
20 creditor may not be awarded costs unless the creditor files an  
affidavit stating that the creditor has made a good faith effort  
22 to determine that the debtor has sufficient nonexempt assets and  
income to satisfy a judgment.  
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